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**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of )  
Eric Grimm ) Pre-MUR 567  
Kent Lindsay )  
Christopher Stecher )

**SECOND GENERAL COUNSEL'S REPORT**

**I. ACTIONS RECOMMENDED**

We recommend that the Commission: (1) find reason to believe that Eric Grimm, Kent Lindsay, and Christopher Stecher, former officers of Mepco Holdings ("Mepco"), knowingly and willfully violated 52 U.S.C. § 30122 (formerly 2 U.S.C. § 441f) by allowing their names to be used to make contributions in the name of another; (2) approve the attached Factual and Legal Analyses; and (3) approve the appropriate letters.

**II. INTRODUCTION**

Mepco and its parent company, Longview Intermediate Holdings C, LLC ("Longview") filed a sua sponte submission ("Submission"), notifying the Commission that between 2010 and 2013, Mepco had reimbursed its executives for making political contributions in an amount potentially exceeding \$600,000.<sup>1</sup> On October 17, 2014, we circulated a First General Counsel's Report ("Report") recommending that the Commission find reason to believe that Mepco, its subsidiary, Mepco, LLC, and certain former and current officers, including James Laurita, Karen Hughes, R. Kevin O'Dell, Brian Osborn, Steven B. Polce, and Richard Usery, knowingly and willfully violated 54 U.S.C. § 30122 (formerly 2 U.S.C. § 441f) by making contributions in the name of another or knowingly permitting their names to be used to effect such contributions.

<sup>1</sup> Submission (Nov. 17, 2013); *see also* Supplemental Submission of Mepco (Mar. 18, 2014).

1 Although the available information indicated that three other former officers, Eric  
2 Grimm, Kent Lindsay, and Christopher Stecher,<sup>2</sup> also participated in the reimbursement scheme,<sup>3</sup>  
3 we did not make any recommendations as to them because they had not been given the  
4 opportunity to join in the Submission to the Commission. In late 2014, we notified Grimm,  
5 Lindsay, and Stecher regarding the allegations as to them,<sup>4</sup> and recently received responses from  
6 Grimm and Lindsay, but not Stecher. Accordingly, we are now in a position to make  
7 recommendations to the Commission concerning its treatment of those individuals as well.

### 8 III. DISCUSSION

9 On January 9, 2015, we received a joint Response from Grimm and Lindsay,  
10 acknowledging that, based on the instructions of Mepco's then-CEO, Laurita, they received  
11 reimbursements from Mepco for their political contributions.<sup>5</sup> As described at greater length in  
12 the Report, documents produced by Mepco further indicate that Grimm and Lindsay, as well as  
13 Stecher, were aware of the limits and prohibitions of the Act and received instructions to destroy  
14 evidence of the reimbursements, like the other executive Respondents who were the subjects of  
15 the Report.<sup>6</sup> Given that information and the concessions of both Grimm and Lindsay in their  
16 Response, we recommend that the Commission find reason to believe that Eric Grimm and Kent  
17 Lindsay knowingly and willfully violated 52 U.S.C. § 30122 (formerly 2 U.S.C. § 441f).

<sup>2</sup> Grimm departed Mepco in November 2013, Lindsay departed Mepco in October 2012, and Stecher departed Mepco in January 2014. Submission at 3.

<sup>3</sup> See First Gen. Counsel's Rpt. at 5-6, Attach. A. (detailing contributions made through various conduits).

<sup>4</sup> See Letter to Christopher Stecher from Jeff S. Jordan, FEC (Oct. 6, 2014); Letter to Eric Grimm from Jeff S. Jordan, FEC (Oct. 6, 2014); Letter to Kent Lindsay from Jeff S. Jordan, FEC (Oct. 6, 2014).

<sup>5</sup> See Response of Eric Grimm and Kent Lindsay (Jan. 9, 2015). Grimm and Lindsay each also indicated that they are joining in Mepco's Submission and plan to cooperate fully with the Commission.

<sup>6</sup> See First Gen. Counsel's Rpt. at 13-14 (describing communications that Mepco officers received regarding limits and prohibitions of the Act and additional communications in which officers were instructed to destroy evidence of reimbursements).

1 We have received no response from Christopher Stecher. Nonetheless, as noted, the  
2 documentary information described in the Report reflects that, like the other executives  
3 addressed in that Report, Stecher knowingly and willfully accepted reimbursements from Mepco  
4 for political contributions.<sup>7</sup> Accordingly, we also recommend that the Commission find reason  
5 to believe that Christopher Stecher knowingly and willfully violated 52 U.S.C. § 30122  
6 (formerly 2 U.S.C. § 441f).

7 **IV. RECOMMENDATIONS**

- 8 1. Find reason to believe that Eric Grimm, Kent Lindsay, and Christopher Stecher  
9 knowingly and willfully violated 52 U.S.C. § 30122 (formerly 2 U.S.C. § 441f).  
10 2. Approve the attached Factual and Legal Analyses.  
11 3. Approve the appropriate letters.

12  
13  
14 4/2/15  
15 Date

  
Daniel A. Petalas  
Associate General Counsel for Enforcement

  
Mark D. Shonkwiler  
Assistant General Counsel for Enforcement

  
Jin Lee  
Attorney

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28 **Attachments:**

- 29 A. Factual and Legal Analysis for Eric Grimm and Kent Lindsay  
30 B. Factual and Legal Analysis for Christopher Stecher

1 **FEDERAL ELECTION COMMISSION**

2  
3 **FACTUAL AND LEGAL ANALYSIS**

4  
5 **RESPONDENTS:** Eric Grimm  
6 Kent Lindsay

**MUR** \_\_\_\_\_

7  
8 **I. INTRODUCTION**

9 Mepco Holdings, LLC ("Mepco") and its parent company, Longview Intermediate  
10 Holdings C, LLC ("Longview") filed a *sua sponte* submission ("Submission"), notifying the  
11 Commission that James Laurita, the former Mepco Chief Executive Officer ("CEO"), caused  
12 Mepco to reimburse him and eight other executives for federal and state contributions made in  
13 the names of the executives and their spouses.<sup>1</sup> Records produced by Mepco and disclosure  
14 reports filed with the Commission indicate that between 2010 and 2013, a number of Mepco  
15 executives were reimbursed for federal political contributions in an amount potentially exceeding  
16 \$600,000. Eric Grimm and Kent Lindsay are two such executives who received  
17 reimbursements.<sup>2</sup> In addition, the evidence suggests that Grimm and Lindsay were aware that  
18 such reimbursements were illegal and acted knowingly and willfully. Accordingly, the  
19 Commission finds reason to believe that Eric Grimm and Kent Lindsay knowingly and willfully  
20 violated 52 U.S.C. § 30122 (formerly 2 U.S.C. § 441f) by knowingly permitting their names to  
21 be used to effect contributions in the name of another.

<sup>1</sup> Submission of Mepco Holdings, LLC and Longview Intermediate Holdings C, LLC at 4 (Nov. 17, 2013) ("Submission").

<sup>2</sup> See Submission of Eric Grimm and Kent Lindsay (Jan. 9, 2015) ("Grimm Lindsay Submission").

**II. FACTUAL BACKGROUND**

**A. Respondents**

Mepco is a holding company that owns and operates numerous coal-related businesses, including Mepco, LLC.<sup>3</sup> Mepco has been managed by three generations of the Laurita family, including James Laurita, Jr., who was the President and Chief Executive Officer of both Mepco and Mepco, LLC, until he resigned in November 2013.<sup>4</sup> Mepco is a subsidiary of Longview, which owns another subsidiary, Longview Power, LLC ("Longview Power"), which operates a coal-fired power facility.<sup>5</sup> Mepco provides Longview Power with coal to operate its power facility.<sup>6</sup> Longview owns a 92.2% interest in Mepco with Laurita owning the remaining 7.8%.<sup>7</sup> Mepco and Longview filed petitions for Chapter 11 bankruptcy petition in August 2013.<sup>8</sup> Neither Mepco nor any of its subsidiaries, which are also LLCs, elected to be taxed as corporations under the Internal Revenue Code.

The other executives who received reimbursements for contributions include two former executives of Mepco: Eric Grimm, who was a Mepco Vice President and Kent Lindsay, who was Mepco's Chief Financial Officer.<sup>9</sup>

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<sup>3</sup> Submission at 2.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> See Voluntary Petition, *In re: Mepco Holdings, LLC*, Case No. 13:12219 (D. Del. Aug. 30, 2013) at 25 ("Mepco Bankr. Pet.").

<sup>8</sup> *Id.*; Submission at 2. The ultimate parent entity of Longview and Mepco is GenPower Holdings GP ("GenPower GP"), which is not a debtor in the bankruptcy proceedings. See Mepco Bankr. Pet. at 25.

<sup>9</sup> Grimm Lindsay Submission at 1.

**B. Mepco's Reimbursement of Political Contributions to Federal Candidates from 2010 through 2013**

According to the Submission, after the 2008 election, Mepco's officers decided that the company should become more politically active by making contributions to federal and state candidates who were likely to support the coal industry.<sup>10</sup> On March 4, 2010, Laurita requested that eight Mepco officers, who included Karen Hughes, Kent Lindsay, Rick Usery, Eric Grimm, Steve Polce, Kevin O'Dell, Brian Osborn, and Christopher Stecher, attend a meeting the next day to discuss elections and support for particular candidates.<sup>11</sup> As a follow-up to the March 5 meeting, Laurita sent another e-mail asking those officers to make contributions in specific dollar amounts to four candidates, three of whom were federal candidates running for seats in the House of Representatives: Mike Oliverio, David McKinley, and Sarah Minear. Laurita also suggested contribution amounts.<sup>12</sup> At Laurita's request, Mepco began reimbursing executives for political contributions on March 9, 2010.<sup>13</sup> According to Mepco LLC's payroll records, on that date, Osborn, Hughes, Polce, O'Dell, Usery, Grimm, Stecher, and Lindsay all received a \$20,000 bonus.<sup>14</sup>

From March 2010 through March 2013, Mepco continued to provide its executives with bonus payments to be used for political contributions.<sup>15</sup> As the Submission and Commission disclosure reports indicate, Laurita and the eight other Mepco officers involved in the reimbursement program contributed over \$600,000 to federal candidates between 2010 and

<sup>10</sup> See Supp. Submission at 3.

<sup>11</sup> E-mail from James Laurita to Karen Hughes, *et al.* (Mar. 4, 2010 12:05 pm) (Mepco\_00000281).

<sup>12</sup> *Id.*

<sup>13</sup> See Supp. Submission at 3.

<sup>14</sup> See 2010 Mepco LLC Payroll Records.

<sup>15</sup> See Supp. Submission at 3. We note that Laurita made two contributions in 2009 to Citizens for Altmire (\$2,500) and Capito for Congress (\$1,000) and was reimbursed for these contributions in late 2012, but the company-wide scheme involving reimbursement of the contributions of other executives apparently did not begin until March 2010.

2013, and as further described below, most, if not all, of these contributions appear to have been reimbursed.<sup>16</sup>

Table 1. — Reimbursed Contributions between 2010 and 2013 by Recipient

Committee	Amount
Citizens for Altmire	\$35,300.00
Capito for Congress	\$11,500.00
Capito for West Virginia	\$34,800.00
Mark Critz for Congress	\$86,400.00
Manchin for West Virginia	\$76,300.00
Spike Maynard for Congress	\$12,800.00
McKinley for Congress	\$113,700.00
Minear for Congress	\$6,000.00
Tim Murphy for Congress	\$3,750.00
Oliverio for Congress	\$84,400.00
Tom Smith for Senate	\$17,500.00
Snuffer for Congress	\$19,193.52
Griffith for Congress	\$1,000.00
Keadle for Congress	\$5,000.00
Mike Kelly for Congress	\$1,000.00
McConnell for Senate 2014	\$2,500.00
Romney Victory, Inc.	\$50,000.00
NRCC	\$40,400.00
West Virginia Republican Party	\$30,000.00
<b>Total:</b>	<b>\$631,543.52</b>

Mepco states that the manner in which it reimbursed its executives varied.<sup>17</sup> Laurita would at times identify candidates friendly to the coal industry and request or “instruct,” either orally or in writing, that company officers, along with their spouses, make contributions to those candidates.<sup>18</sup> In other instances, executives made candidate recommendations to Laurita.<sup>19</sup>

<sup>16</sup> We use “reimburse” generally to describe both advances and subsequent repayments for contributions.

<sup>17</sup> Supp. Submission at 4.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

1 Executives stated that on occasion they would discuss political candidates at monthly  
2 management meetings or in other group settings.<sup>20</sup>

3 When not personally soliciting contributions, Laurita frequently relied on either Hughes,  
4 who handled administrative tasks related to Mepco's finances and payroll, or his assistant,  
5 Suzanne Crane (née Likins), to convey his requests.<sup>21</sup> Hughes and Crane communicated with  
6 executives both orally and in writing, indicating which candidates should receive contributions  
7 and in what amount.<sup>22</sup> Often accompanying their requests were contribution forms for specific  
8 candidates or fundraising events.<sup>23</sup>

9 Once the officers received the requests, they or their spouses would make contributions  
10 online or by check.<sup>24</sup> Typically, the executives provided checks to Hughes instead of submitting  
11 them directly to a campaign or candidate.<sup>25</sup>

12 At Laurita's request, Hughes and staff in the payroll department would arrange for  
13 officers to receive reimbursement through "bonuses" paid through Mepco's payroll system.<sup>26</sup>  
14 Hughes maintained extensive charts that reflected contributions made by each executive and the

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*; see also E-mail from James Laurita to Suzanne Crane (Mar. 6, 2013 1:42 pm) (MEPCO\_00000071) (requesting that each officer and his or her spouse contribute \$2,500); E-mail from James Laurita to Karen Hughes (Sept. 13, 2012 4:50 am) (MEPCO\_00000982-983) ("Karen, I forgot about this fund raiser. Will need \$1,000 from each officer."); E-mail from James Laurita to Suzanne Crane (Mar. 6, 2013 1:46 pm) (MEPCO\_00000792) ("Ask the officers to contribute \$2,500 x 2 here too"); E-mail from Karen Hughes to Brian Osborn and Eric Grimm (Sept. 28, 2010) (MEPCO\_00000197) ("Are you making a donation as suggested so I can add it to your reimbursement?").

<sup>22</sup> Supp. Submission at 4; see also E-mail from Karen Hughes to Kent Lindsay, *et al.* (Sept. 8, 2010 12:07 pm) (MEPCO\_00003986) ("By the end of the day tomorrow (Thursday), please provide your check in the amount of \$500 payable to 'Capito for Congress.'").

<sup>23</sup> Supp. Submission at 4; see also E-mail from Suzanne Likins to Eric Grimm, *et al.* (Sept. 19, 2012 3:01 pm) (MEPCO\_00005220-221).

<sup>24</sup> Supp. Submission at 5.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*



1 payment of reimbursements.<sup>27</sup> Specifically, payroll records indicate that funds used for  
2 reimbursements came from Mepco's wholly owned subsidiary, Mepco LLC.<sup>28</sup> The method and  
3 amounts of the reimbursements varied, and the payments were not made at regular intervals.<sup>29</sup>  
4 The timing of the "bonuses" also varied in that executives received compensation for  
5 contributions either before or after making them.<sup>30</sup> Sometimes, reimbursements were tied to  
6 specific contributions made to a particular campaign.<sup>31</sup> In other instances, executives received  
7 lump sum payments deposited into their accounts from which they were to make contributions.<sup>32</sup>  
8 And still in others, Hughes would simply ask executives to provide a list of contributions they  
9 had already made, so that she could reimburse them accordingly.<sup>33</sup>

10 In many instances, executives contributed through campaign fundraisers hosted by  
11 Laurita,<sup>34</sup> who often used company resources to hold them.<sup>35</sup> Frequently, Laurita's assistant,

<sup>27</sup> Supp. Submission at 4; *see also* E-mail from Karen Hughes to Rodney Bolyard (Nov. 16, 2012 1:05 pm); MEPCO\_00000131-132 (reflecting candidate contributions and payment of reimbursements from 2010-2012).

<sup>28</sup> *See* 2010-2013 Mepco Payroll Records.

<sup>29</sup> Supp. Submission at 4.

<sup>30</sup> *Id.* Compare E-mail from Karen Hughes to Kevin O'Dell (Oct. 4, 2010 12:04pm) (MEPCO 00000177) ("The yellow highlights are those donations I have not yet received from you. If you intend to make those donations, please fill in the amount and return to me. I plan to make reimbursements to hit your bank on Wednesday."), with E-mail from Karen Hughes to Kevin O'Dell (Sept. 20, 2011 10:41 am) (MEPCO\_00000257) ("You have \$7,056 in your account that is not yours. Save for future contributions.").

<sup>31</sup> Supp. Submission at 4; E-mail from Karen Hughes to Brian Osborn and Eric Grimm (Sept. 28, 2010 9:10 am) (MEPCO\_00000197) (asking whether Osborn or Grimm planned on making a "donation" to attend fundraiser for Congressman David McKinley so that funds could be added to their "reimbursements").

<sup>32</sup> Supp. Submission at 4; E-mail from Kevin O'Dell to Dawn O'Dell (Mar. 9, 2010 2:38 pm) (Mepco\_00000279) ("The after tax deposit was \$11,456. We will pay out \$6,800 in the Primary and use the rest in the general later this year. We will have \$4,658 in our account for a few months.").

<sup>33</sup> *See* E-mail from Karen Hughes to Kent Lindsay, *et al.* (Sept. 15, 2010) (MEPCO\_00000201) ("would you please send me a list of all the political contributions (both by check and credit card) you have made since the May primaries? I have been really really swamped over the past few days and haven't had a chance to tally for each of you.") (emphasis in original); E-mail from Eric Grimm to Karen Hughes (Sept. 18, 2010 3:22 pm) (MEPCO\_00000111) (providing itemized list of contributions made from personal funds deposited into Grimm's personal account); E-mail from Karen Hughes to Brian Osborn (Mar. 28, 2012 2:16 pm), MEPCO\_00000154-55 ("Please verify my records, but I show that you wrote checks for \$27,500 (including Manchin) which would be deducted from the \$28,000 net bonus.").

<sup>34</sup> *See, e.g.,* Invitation to Fundraiser for Congressman Jason Altmire (MEPCO\_00006783) ("Altmire Invitation"); E-mail from Suzanne Likins to Karen Hughes, *et al.* (Aug. 16, 2011, 12:56 pm) (MEPCO\_00001498)

1 Suzanne Crane, assisted Laurita with planning these fundraisers and sending out invitations as  
2 well as working directly with the candidates' campaigns.<sup>36</sup>

3 **C. Discovery of Reimbursement Program**

4 On August 30, 2013, Mepco and Longview filed petitions for Chapter 11 bankruptcy. In  
5 the course of the restructuring process, Mepco's restructuring counsel, Kirkland and Ellis, LLP,  
6 ("K&E") reviewed Mepco's books and records to prepare a filing in the Bankruptcy Court.<sup>37</sup> On  
7 September 26, 2013, counsel learned about a category of compensation for Mepco executives  
8 called "other bonus," and when K&E inquired about this bonus category, Mepco's current Chief  
9 Financial Officer responded that the category represented company funds used to reimburse (or  
10 advance) executives for political contributions.<sup>38</sup> The next day, K&E notified Longview's CEO,  
11 who authorized further investigation.<sup>39</sup> After the investigation, Laurita resigned as CEO and as a  
12 Board member of Mepco on November 10, 2013.<sup>40</sup>

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(inviting MEPCO executives to fundraiser for Congressman Jason Altmire, hosted by Laurita and his spouse, Becky); E-mail from Suzanne Crane to Suzanne Crane, *et al.* (Mar. 26, 2013 08:17 am) (MEPCO\_00004645-46) (inviting Mepco executives and other guests to fundraiser for U.S. Senate candidate Shelley Moore Capito, hosted by Laurita) ("Capito 2013 Invitation"); Invitation to Fundraiser for Congressman Mark Critz (MEPCO\_00000089) ("Critz Invitation"); E-mail from Suzanne Likins to Suzanne Likins, *et al.* (Mar. 21, 2012 10:02 am) (MEPCO\_00006026) (invitation to fundraiser for Senator Joe Manchin) ("Manchin 2012 Invitation"); Invitation to Fundraiser for Congressman David McKinley (MEPCO\_00004015).

<sup>35</sup> See, e.g., Letter from Ron Clark, Purchasing Director, Mepco (June 21, 2010) (MEPCO\_00003706) (inviting guests to fundraiser for U.S. House of Representatives candidate Mike Oliverio held at Mepco offices).

<sup>36</sup> See, e.g., E-mail from Suzanne Likins to James Laurita (Aug. 16, 2011 08:17 am) (MEPCO\_00002581) (picking up campaign signs for fundraising event to be held at Laurita's residence); Capito 2013 Invitation, *supra*, n. 35; Manchin 2012 Invitation, *supra*, n. 35.

<sup>37</sup> Submission at 2.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *Id.* n. 1.

**III. LEGAL ANALYSIS**

**A. Contributions Made in the Name of Another**

The Act prohibits a person from making a contribution in the name of another or knowingly permitting his or her name to be used to effect such a contribution.<sup>41</sup> The prohibition extends to knowingly helping or assisting any person in making a contribution made in the name of another.<sup>42</sup> The term "person" for purposes of the Act and Commission regulations includes partnerships, corporations, and other organizations, including LLCs.<sup>43</sup>

A principal is liable vicariously for the acts of its agent committed within the scope of agency.<sup>44</sup> Here, based on the actions of its executives, Mepco admits that it reimbursed its executives for making political contributions.<sup>45</sup> In addition, the executives who were formerly employed by Mepco — including Grimm and Lindsay — admit that they received reimbursements for making contributions. Mepco used funds from its wholly owned subsidiary, Mepco LLC, to compensate its executives for making contributions to federal candidates and other political committees. Mepco therefore made contributions in the name of another in violation of section 30122 (formerly section 441f). Further, by accepting reimbursements for contributions they made to candidates and political committees and thus serving as conduits in Mepco's reimbursement program, Grimm and Lindsay appeared to have knowingly permitted their names to effect contributions made in the name of another in violation of section 30122.

<sup>41</sup> 52 U.S.C. § 30122 (formerly 2 U.S.C. § 441f); 11 C.F.R. § 110.4(b)(1)(i).

<sup>42</sup> 11 C.F.R. § 110.4(b)(1)(iii).

<sup>43</sup> See 52 U.S.C. § 30101(11) (formerly 2 U.S.C. § 431(11)); 11 C.F.R. § 100.10; Advisory Op. 2009-02 (True Patriot Network) at 3.

<sup>44</sup> RESTATEMENT (THIRD) OF AGENCY § 7.07; see also *United States v. Sun-Diamond Growers of Cal.*, 138 F.3d 961 (D.C. Cir. 1998) (affirming criminal convictions against corporation in connection with a contribution reimbursement scheme where officer hid the scheme from others in corporation but acted to benefit the corporation).

<sup>45</sup> Submission at 1; Supp. Submission at 1.

1 In addition, the facts appear to indicate that respondents acted knowingly and willfully.  
2 A violation of the Act is knowing and willful if the "acts were committed with full knowledge of  
3 all the relevant facts and a recognition that the action is prohibited by law."<sup>46</sup> This does not  
4 require proving knowledge of the specific statute or regulation the respondent allegedly  
5 violated.<sup>47</sup> Instead, it is sufficient to demonstrate that a respondent "acted voluntarily and was  
6 aware that his conduct was unlawful."<sup>48</sup> This may be shown by circumstantial evidence from  
7 which the respondents' unlawful intent reasonably may be inferred.<sup>49</sup> For example, a person's  
8 awareness that an action is prohibited may be inferred from "the [person's] elaborate scheme for  
9 disguising their . . . political contributions."<sup>50</sup>

10 The record here indicates that Mepco executives, including Grimm and Lindsay, were  
11 aware of the prohibitions and limits relating to political contributions prior to October 2013.<sup>51</sup>  
12 For example, on August 22, 2012, Laurita appears to have e-mailed to Grimm an invitation for a  
13 fundraiser hosted by Laurita, which stated, "[c]ontributions must be made from your own funds,

<sup>46</sup> 122 Cong. Rec. 12,197, 12,199 (May 3, 1976).

<sup>47</sup> *United States v. Danielczyk*, \_\_\_ F. Supp. 2d \_\_\_, 2013 WL 124119, \*5 (E.D. Va. Jan. 9, 2013) (quoting *Bryan v. United States*, 524 U.S. 184, 195 & n.23 (1998) (holding that, to establish a violation is willful, government needs to show only that defendant acted with knowledge that conduct was unlawful, not knowledge of specific statutory provision violated)).

<sup>48</sup> *Id.* (citing jury instructions in *United States v. Edwards*, No. 11-61 (M.D.N.C. 2012), *United States v. Acevedo Vila*, No. 08-36 (D.P.R. 2009), *United States v. Fieger*, No. 07-20414 (E.D. Mich. 2008), and *United States v. Alford*, No. 05-69 (N.D. Fla. 2005)).

<sup>49</sup> *Cf. United States v. Hopkins*, 916 F.2d 207, 213 (5th Cir. 1990) (quoting *United States v. Bordelon*, 871 F.2d 491, 494 (5th Cir. 1989)). *Hopkins* involved a conduit contributions scheme, and the issue before the Fifth Circuit concerned the sufficiency of the evidence supporting the defendants' convictions for conspiracy and false statements under 18 U.S.C. §§ 371 and 1001.

<sup>50</sup> *Id.* at 214-15. As the *Hopkins* court noted, "It has long been recognized that 'efforts at concealment [may] be reasonably explainable only in terms of motivation to evade' lawful obligations." *Id.* at 214 (quoting *Ingram v. United States*, 360 U.S. 672, 679 (1959)).

<sup>51</sup> See, e.g., Invitation to Fundraiser for Citizens for Altmire hosted by James and Rebecca Laurita (MEPCO\_00004227) ("Contributions are limited to personal funds of \$2,500 per person . . .").

1 and funds cannot be provided to you by another person or entity for the purpose of making this  
2 contribution.”<sup>52</sup>

3 Further, e-mail communications of Karen Hughes instructed other senior Mepco officers  
4 to destroy e-mails stating that they would receive reimbursements for their contributions. In an  
5 e-mail to six other Mepco executives, including Grimm and Lindsay, with a subject line entitled,  
6 “Manchin,” Hughes writes “You will be receiving a \$1,000(net) bonus by direct deposit in the  
7 next few days. Please delete this email.”<sup>53</sup> In another e-mail, Hughes informs seven Mepco  
8 executives: “By the end of the day tomorrow (Thursday), please provide your check in the  
9 amount of \$500 payable to ‘Capito for Congress.’”<sup>54</sup> One minute later, she sends another e-mail  
10 with the subject line “Delete this e-mail” to the same individuals and states, “I’ll reimburse you  
11 in the next couple days.”<sup>55</sup>

12 It is true that, as a matter of policy, the Commission has concluded that it may in  
13 appropriate circumstances “[r]efrain from making a formal finding that a violation was knowing  
14 and willful, even where the available information would otherwise support such a finding.”<sup>56</sup>  
15 However, where certain aggravating factors are present, the Commission has made knowing and  
16 willful findings as to the organization itself and has found that respondents acted knowingly and  
17 willfully where knowledge of the illegal nature of the activity can be attributed to its most senior

<sup>52</sup> E-mail from James Laurita to Eric Grimm and Karen Hughes (Aug. 22, 2012 5:02 am) (MEPCO\_000000119-121) (“In essence, I was only going to have Becky and I, and Your [sic] and Sheryl give to Critz (see attached). If you agree with that, Karen will take care of adjusting your account.”).

<sup>53</sup> E-mail from Karen Hughes to Kent Lindsay, *et al.* (Aug. 13, 2010 8:49 pm) (MEPCO\_00000215).

<sup>54</sup> E-mail from Karen Hughes to Kent Lindsay, *et al.* (Sept. 8, 2010 12:07 pm) (MEPCO\_00000212).

<sup>55</sup> E-mail from Karen Hughes to Kent Lindsay, *et al.* (Sept. 8, 2010 12:08pm) (MEPCO\_00000211).

<sup>56</sup> See Policy Regarding Self-Reporting of Campaign Finance Violations (*Sua Sponte* Submissions), 72 Fed. Reg. 16,695, 16,696 (Apr. 5, 2007) (“*Sua Sponte* Policy”).

1 officers and efforts were made to conceal the conduct.<sup>57</sup> Here, senior executives were informed  
2 about the prohibitions and limitations of the Act and instructed to destroy evidence of their  
3 illegal activity. Further, Mepco's reimbursement program was not a "one-time event" but "an  
4 ongoing pattern of conduct repeated over an extended period of time" resulting in the  
5 reimbursement of contributions apparently worth more than \$600,000.<sup>58</sup> Given the egregious  
6 nature of the scheme here, which would have likely continued, but for the fact that it came to  
7 light only when outside counsel inquired into the financial accounting of the entities in  
8 connection with Mepco's bankruptcy proceeding, the present circumstances do not warrant  
9 refraining from making a knowing and willful finding in this case.

10 Accordingly, the Commission finds reason to believe that Eric Grimm and Kent Lindsay  
11 knowingly and willfully violated 52 U.S.C. § 30122 (formerly 2 U.S.C. § 441f).

<sup>57</sup> See, e.g., MUR 6515 (Professional Fire Fighters of Wisconsin) (Commission found reason to believe that respondents knowingly and willfully violated the Act where officers of the Executive Board submitted false expense forms to receive reimbursements for political contributions); MUR 6143 (Galen Capital Group) (Commission found reason to believe respondents knowingly and willfully violated the Act where CEO and other conduits signed donor cards containing warnings against reimbursed contributions and where CEO attempted to conceal true purpose of reimbursement checks). See also *Sua Sponte* Policy, 72 Fed. Reg. at 16,697.

<sup>58</sup> *Sua Sponte* Policy at 16,697.

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3  
4  
5 **RESPONDENTS:** Christopher Stecher

**MUR** \_\_\_\_\_

6  
7  
8 **I. INTRODUCTION**

9 In the normal course of carrying out its supervisory responsibilities, the Commission  
10 received information indicating that Mepco Holdings, LLC ("Mepco") reimbursed nine  
11 executives for federal and state contributions made in the names of the executives and their  
12 spouses. The information shows that between 2010 and 2013, a number of Mepco executives,  
13 including Christopher Stecher, were reimbursed for federal political contributions in an amount  
14 potentially exceeding \$600,000. In addition, the evidence suggests that Stecher was aware that  
15 such reimbursements were illegal and acted knowingly and willfully. Accordingly, the  
16 Commission finds reason to believe that Christopher Stecher knowingly and willfully violated 52  
17 U.S.C. § 30122 (formerly 2 U.S.C. § 441f) by knowingly permitting his name to be used to  
18 effect contributions in the name of another.

19 **II. FACTUAL BACKGROUND**

20 **A. Respondents**

21 Mepco is a holding company that owns and operates numerous coal-related businesses,  
22 including Mepco, LLC. According to information in possession of the Commission, Mepco has  
23 been managed by three generations of the Laurita family, including James Laurita, Jr., who was  
24 the President and Chief Executive Officer of both Mepco and Mepco, LLC until he resigned in  
25 November 2013. Mepco is a subsidiary of Longview, which owns another subsidiary, Longview  
26 Power, LLC ("Longview Power"), which operates a coal-fired power facility.

1 According to information that the Commission possesses, Christopher Stecher, a former  
2 Chief Financial Officer and Manager of Accounting, was one of the Mepco executives who  
3 received reimbursements for contributions. On October 6, 2014, the Office of General Counsel  
4 notified Stecher of the allegations as to him but received no response from him.<sup>1</sup>

5 **B. Mepco's Reimbursement of Political Contributions to Federal Candidates**  
6 **from 2010 through 2013**

7  
8 The available information indicates that after the 2008 election, Mepco's officers decided  
9 that the company should become more politically active by making contributions to federal and  
10 state candidates who were likely to support the coal industry. On March 4, 2010, Laurita  
11 requested that eight Mepco officers, who included Karen Hughes, Kent Lindsay, Rick Usery,  
12 Eric Grimm, Steve Polce, Kevin O'Dell, Brian Osborn, and Christopher Stecher, attend a  
13 meeting the next day to discuss elections and support for particular candidates. As a follow-up  
14 to the March 5 meeting, Laurita asked those officers to make contributions in specific dollar  
15 amounts to four candidates, three of whom were federal candidates running for seats in the  
16 House of Representatives: Mike Oliverio, David McKinley, and Sarah Minear. Laurita also  
17 suggested contribution amounts. At Laurita's request, Mepco began reimbursing executives for  
18 political contributions on March 9, 2010. According to the information, on that date, Osborn,  
19 Hughes, Polce, O'Dell, Usery, Grimm, Stecher, and Lindsay all received a \$20,000 bonus.

20 From March 2010 through March 2013, Mepco continued to provide its executives with  
21 bonus payments to be used for political contributions. According to Commission disclosure  
22 reports and other information available to the Commission, Laurita and the eight other Mepco  
23 officers involved in the reimbursement program contributed over \$600,000 to federal candidates

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<sup>1</sup> See Letter to Christopher Stecher from Jeff S. Jordan, FEC (Oct. 6, 2014).



between 2010 and 2013, and as further described below, Stecher received reimbursements for the following contributions made in his and his spouse's names:

Name	Date	Amount	Aggregate	Election	Employer	Occupation
<b>Citizens for Altmire</b>						
Rodriguez Sanabia, Patricia	8/22/2011	1,500.00	1,500.00	P2012	Self	Property Manager
Stecher, Christopher	8/22/2011	1,500.00	1,500.00	P2012	Mepco	Finance
<b>Capito for Congress</b>						
Stecher, Christopher J. Mr.	9/27/2010	\$500.00	\$500.00	G2010	Mepco LLC	Finance
<b>Mark Critz for Congress</b>						
Stecher, Christopher	9/14/2010	\$500.00	\$500.00	G2010	Mepco LLC	Finance
Rodriguez-Sanabia, Patricia	10/29/2010	\$1,000.00	\$1,000.00	G2010	Self Employed	Real Estate
Stecher, Christopher	10/29/2010	\$1,900.00	\$2,400.00	G2010	Mepco LLC	Finance
Rodriguez, Patricia	12/16/2010	\$1,000.00	\$1,000.00	P2012	Self Employed	Real Estate Professional
Steven, Christopher	12/16/2010	\$1,000.00	\$1,000.00	P2012	Mepco	Accounting & Finance
Rodriguez, Patricia	6/30/2011	\$1,500.00	\$2,500.00	P2012	Self Employed	Real Estate Professional
Stecher, Christopher	6/30/2011	\$1,500.00	\$1,500.00	P2012	Mepco LLC	Finance
<b>Manchin for West Virginia</b>						
Stecher, Christopher	8/17/2010	\$1,000.00	\$1,000.00	P2010	Mepco	Accountant
Stecher, Christopher	4/10/2012	\$2,500.00	\$5,000.00	P2012	Mepco	Accountant
Stecher, Christopher	4/10/2012	\$2,500.00	\$5,000.00	G2012	Mepco	Accountant
<b>Spike Maynard for Congress</b>						
Stecher, Christopher	10/22/2010	\$1,000.00	\$1,000.00	G2010	Mepco	Accountant

MUR \_\_\_\_\_ (Christopher Stecher)  
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<b>McKinley for Congress</b>						
Rodriguez-Sanabia, Patricia	3/10/2010	\$500.00	\$500.00	P2010	Self	Real Estate Agent
Rodriguez-Sanabia, Patricia	6/28/2010	\$1,000.00	\$1,500.00	G2010	Self	Real Estate Agent
Stecher, Christopher	6/28/2010	\$1,000.00	\$1,000.00	G2010	Mepco LLC	President
Rodriguez-Sanabia, Patricia	3/31/2011	\$2,500.00	\$2,500.00	P2012	Self	Real Estate Agent
Stecher, Christopher	3/31/2011	\$2,500.00	\$2,500.00	P2012	Mepco LLC	President
<b>Minear for Congress</b>						
Rodriguez-Sanabia, Patricia	3/17/2010	\$500.00	\$500.00	P2010	N/A	Real Estate Agent
<b>Oliverio for Congress</b>						
Stecher, Christopher	3/15/2010	\$2,400.00	\$2,400.00	P2010	Finance	Mepco LLC
Rodriguez-Sanabia, Patricia	6/30/2010	\$1,000.00	\$3,400.00	G2010	Self	Real Estate Agent
Stecher, Christopher	6/30/2010	\$1,000.00	\$3,400.00	G2010	Finance	Mepco LLC
Rodriguez-Sanabia, Patricia	10/9/2010	\$500.00	\$3,900.00	G2010	Self	Real Estate Agent
Stecher, Christopher	10/9/2010	\$1,400.00	\$4,800.00	G2010	Finance	Mepco LLC
<b>Snuffer for Congress</b>						
Stecher, Christopher J	9/21/2012	\$1,000.00	\$1,000.00	G2012	Mepco LLC	Finance
	<b>Total</b>	<b>\$34,200.00</b>				

The available information indicates that the manner in which Mepco reimbursed its executives varied. Laurita would at times identify candidates friendly to the coal industry and request or "instruct," either orally or in writing, that company officers, along with their spouses, make contributions to those candidates. In other instances, executives made candidate recommendations to Laurita. On occasion, executives would discuss political candidates at monthly management meetings or in other group settings.

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1 Further, the available information shows that when not personally soliciting  
2 contributions, Laurita frequently relied on either Hughes, who handled administrative tasks  
3 related to Mepco's finances and payroll, or his assistant, Suzanne Crane (née Likins), to convey  
4 his requests. Hughes and Crane communicated with executives both orally and in writing,  
5 indicating which candidates should receive contributions and in what amount. Often  
6 accompanying their requests were contribution forms for specific candidates or fundraising  
7 events. Once the officers received the requests, they or their spouses would make contributions  
8 online or by check. Typically, the executives provided checks to Hughes instead of submitting  
9 them directly to a campaign or candidate.

10 At Laurita's request, Hughes and staff in the payroll department would arrange for  
11 officers to receive reimbursement through "bonuses" paid through Mepco's payroll system.  
12 Hughes maintained extensive charts that reflected contributions made by each executive and the  
13 payment of reimbursements. Specifically, payroll records indicate that funds used for  
14 reimbursements came from Mepco's wholly owned subsidiary, Mepco LLC. The method and  
15 amounts of the reimbursements varied, and the payments were not made at regular intervals.  
16 The timing of the "bonuses" also varied in that executives received compensation for  
17 contributions either before or after making them. Sometimes, reimbursements were tied to  
18 specific contributions made to a particular campaign. In other instances, executives received  
19 lump sum payments deposited into their accounts from which they were to make contributions.  
20 And still in others, Hughes would simply ask executives to provide a list of contributions they  
21 had already made, so that she could reimburse them accordingly.

**III. LEGAL ANALYSIS**

**A. Contributions Made in the Name of Another**

The Act prohibits a person from making a contribution in the name of another or knowingly permitting his or her name to be used to effect such a contribution.<sup>2</sup> The prohibition extends to knowingly helping or assisting any person in making a contribution made in the name of another.<sup>3</sup> The term "person" for purposes of the Act and Commission regulations includes partnerships, corporations, and other organizations, including LLCs.<sup>4</sup>

Information in the Commission's possession indicates that Mepco made contributions in the name of another by reimbursing its executives, including Stecher, for contributions to political committees, and that by accepting such reimbursements, Stecher knowingly permitted his name to be used to effect such contributions. Although the Commission has notified Stecher of the allegations as to him, Stecher has not responded.

Further, the available information suggests that Stecher acted knowingly and willfully. A violation of the Act is knowing and willful if the "acts were committed with full knowledge of all the relevant facts and a recognition that the action is prohibited by law."<sup>5</sup> This does not require proving knowledge of the specific statute or regulation the respondent allegedly violated.<sup>6</sup> Instead, it is sufficient to demonstrate that a respondent "acted voluntarily and was

<sup>2</sup> 52 U.S.C. § 30122 (formerly 2 U.S.C. § 441f); 11 C.F.R. § 110.4(b)(1)(i).

<sup>3</sup> 11 C.F.R. § 110.4(b)(1)(iii).

<sup>4</sup> See 52 U.S.C. § 30101(11) (formerly 2 U.S.C. § 431(11)); 11 C.F.R. § 100.10; Advisory Op. 2009-02 (True Patriot Network) at 3.

<sup>5</sup> 122 Cong. Rec. 12,197, 12,199 (May 3, 1976).

<sup>6</sup> *United States v. Danielczyk*, \_\_\_ F. Supp. 2d \_\_\_, 2013 WL 124119, \*5 (E.D. Va. Jan. 9, 2013) (quoting *Bryan v. United States*, 524 U.S. 184, 195 & n.23 (1998) (holding that, to establish a violation is willful, government needs to show only that defendant acted with knowledge that conduct was unlawful, not knowledge of specific statutory provision violated)).

1 aware that his conduct was unlawful.”<sup>7</sup> This may be shown by circumstantial evidence from  
2 which the respondents’ unlawful intent reasonably may be inferred.<sup>8</sup> For example, a person’s  
3 awareness that an action is prohibited may be inferred from “the [person’s] elaborate scheme for  
4 disguising their . . . political contributions.”<sup>9</sup>

5 The record here indicates that Mepco executives, including Stecher, were aware of the  
6 prohibitions and limits relating to political contributions prior to October 2013. On numerous  
7 occasions, campaigns informed them about the rules for making political contributions. Further,  
8 e-mail communications of Karen Hughes, Secretary and Treasurer of Mepco, instructed other  
9 senior Mepco officers to destroy e-mails stating that they would receive reimbursements for their  
10 contributions. In an e-mail to six other Mepco executives, including Stecher, with a subject line  
11 entitled, “Manchin,” Hughes writes “You will be receiving a \$1,000(net) bonus by direct deposit  
12 in the next few days. Please delete this email.” In another e-mail, Hughes informs seven Mepco  
13 executives: “By the end of the day tomorrow (Thursday), please provide your check in the  
14 amount of \$500 payable to ‘Capito for Congress.’” One minute later, she sends another e-mail  
15 with the subject line “Delete this e-mail” to the same individuals and states, “I’ll reimburse you  
16 in the next couple days.”

17 Based on the foregoing, the Commission finds reason to believe that Christopher Stecher  
18 knowingly and willfully violated 52 U.S.C. § 30122 (formerly 2 U.S.C. § 441f).

<sup>7</sup> *Id.* (citing jury instructions in *United States v. Edwards*, No. 11-61 (M.D.N.C. 2012), *United States v. Acevedo Vila*, No. 08-36 (D.P.R. 2009), *United States v. Fieger*, No. 07-20414 (E.D. Mich. 2008), and *United States v. Alford*, No. 05-69 (N.D. Fla. 2005)).

<sup>8</sup> *Cf. United States v. Hopkins*, 916 F.2d 207, 213 (5th Cir. 1990) (quoting *United States v. Bordelon*, 871 F.2d 491, 494 (5th Cir. 1989)). *Hopkins* involved a conduit contributions scheme, and the issue before the Fifth Circuit concerned the sufficiency of the evidence supporting the defendants’ convictions for conspiracy and false statements under 18 U.S.C. §§ 371 and 1001.

<sup>9</sup> *Id.* at 214-15. As the *Hopkins* court noted, “It has long been recognized that ‘efforts at concealment [may] be reasonably explainable only in terms of motivation to evade’ lawful obligations.” *Id.* at 214 (quoting *Ingram v. United States*, 360 U.S. 672, 679 (1959)).